

The National Assessment of the Worker Protection Program



Stakeholder Workshop #1

Workshop Report

**Austin, Texas
June 6-7, 2000**

Executive Summary

Introduction

On June 6-7, 2000, the U.S. Environmental Protection Agency (EPA) convened the “National Assessment of the Worker Protection Program - Workshop #1” in Austin, Texas. The Austin meeting represented the official launch of the Agency’s national assessment of the WPS program, beginning a multi-phase process that will take place over the next 18 to 24 months to conduct a comprehensive review of EPA’s worker protection program, including implementation and enforcement. The national assessment will help the Agency determine whether the WPS program is adequately meeting its intended goals of addressing the risks to agricultural workers.

Background on the Worker Protection Standard

The revised Worker Protection Standard (WPS) regulation was issued by the U.S. Environmental Protection Agency (EPA) in August 1992, and became fully effective on January 1, 1995. The WPS was put in place to reduce the occupational risk of pesticide poisonings and injuries among agricultural workers and pesticide handlers on farms, forests, nurseries and greenhouses. The rule provides protections to over three and a half million people who work with pesticides at over 560,000 workplaces. The WPS contains requirements for:

- ❖ Pesticide safety training;
- ❖ Notification of pesticide applications;
- ❖ Use of personal protective equipment;
- ❖ Restricted entry intervals following pesticide applications;
- ❖ Decontamination supplies; and
- ❖ Emergency medical assistance.

The WPS represented a significant strengthening of the occupational protections for agricultural workers and involved substantial changes in agricultural practice for employers to comply with the new requirements. The WPS also required the Office of Pesticide Programs to undertake one of its most extensive regulatory implementation efforts ever. EPA has been engaged in its WPS implementation effort for five years during which time EPA’s state regulatory partners and other stakeholders have identified numerous concerns with implementation of the regulation. A recent series of reports and recommendations from the Government Accounting Office (GAO), the Children’s Health Protection Advisory Committee (CHPAC), and various worker advocacy groups have identified other areas of concern with the WPS program as well. All of these factors have led to the launching of this national assessment of the worker protection program.

The National Assessment of the WPS Program

EPA is initiating its national assessment of the WPS program to assess the effectiveness of its WPS implementation and enforcement efforts, and address the GAO, CHPAC, and other stakeholder recommendations on EPA's regulatory efforts to protect the health of agricultural workers and children working in agricultural areas. The goals of the national assessment are to:

- ❖ Generate a consortium of interests committed to the WPS program and the assessment;
- ❖ Identify key stakeholder concerns/issues with the WPS program that need to be addressed;
- ❖ Assess the current program status and determine program needs and priorities;
- ❖ Develop a comprehensive set of recommendations for WPS program enhancements and possible regulatory changes that EPA should consider;
- ❖ Develop mechanisms to foster partnerships that can effect positive change in the program and make the program work effectively; and
- ❖ Develop the infrastructure for a continuing forum that will address future WPS issues.

The national assessment will initially focus on the following key areas of EPA's worker protection program:

- ❖ Effectiveness of EPA's WPS implementation and enforcement efforts;
- ❖ EPA's oversight of state programs and the effectiveness and consistency of state implementation and enforcement of the WPS;
- ❖ Outreach and communications with the affected regulatory community and stakeholders;
- ❖ Scope, quality and delivery of worker and handler training programs;
- ❖ Special needs/concerns of children and pregnant women as agricultural workers; and
- ❖ Strategies for educating health care workers and the medical community.

The Austin Stakeholder Meeting - June 6-7, 2000

The Austin meeting was the first of three national stakeholder meetings being held to invite stakeholder participation in the national assessment. EPA feels it is critical to engage a broad array of WPS stakeholders in the assessment effort. The Austin meeting began the important process of building a coalition of interested stakeholders that are willing to participate in the assessment effort, and remain active in resolving WPS program issues and effecting positive change in the operation of the program. The primary objectives of the Austin meeting were to:

- ❖ Articulate the Agency's objectives for the national assessment and outline the nature of the stakeholder participation being sought;

- ❖ Provide an opportunity for public input on the structure, design and operation of the national assessment;
- ❖ Give stakeholders an opportunity to identify WPS issues/concerns they think EPA should consider in its national assessment of the WPS program; and
- ❖ Have stakeholders identify key focal areas/priorities for the assessment.

The first half day of the two-day Austin meeting consisted of general presentations and panel discussions to provide participants with background information on the WPS program, and also to provide an opportunity for a discussion of the goals and desired outcomes of the meeting as well as the overall assessment process. The remaining one and a half days took place in four small group break-out sessions that focused on identifying stakeholder concerns and gathering their input on four main discussion topic areas:

- ❖ WPS Outreach, Communications and Training Issues;
- ❖ WPS Enforcement Issues;
- ❖ Rethinking/Improving the WPS; and
- ❖ The Proposed Structure and Process for the National WPS Assessment.

Summary of Meeting Outcomes

The Agency received extensive comments from stakeholders during the break-out sessions, resulting in the identification of many specific concerns with the WPS program and its implementation. Stakeholders also provided input on the national assessment process and made numerous recommendations for WPS program improvements. The last part of the Austin meeting was dedicated to summarizing the concerns and issues raised by the various stakeholders in the break-out sessions and discussing the themes that emerged from the meeting. This process resulted in the identification of the following broad theme areas and underlying issues that will serve as focal points for the assessment process as it moves forward:

- ❖ **Training Issues:** funding and resource distribution, program and materials evaluation, handler training, training content, training quality and consistency, training materials, train-the-trainer networks, alternative training systems, re-training, and training record-keeping requirements;
- ❖ **Enforcement Issues:** funding, EPA oversight of state programs, quality and consistency of state WPS inspections, defining WPS inspection criteria, national reporting, WPS penalty policy, incident reporting and tracking, and community/advocacy group involvement;
- ❖ **Complaint and Retaliation Issues:** improving the complaint process, educating workers on WPS and the complaint process, and resolving retaliation problems;

- ❖ **Communications Issues:** general WPS outreach with stakeholders, hazard communication information for workers, language and cultural barriers, and outreach and coordination with health care providers;
- ❖ **Children's Health Issues:** adequacy of the WPS restricted entry intervals for protecting children under 12 years of age, special provisions needed for protecting children, and appropriateness of children working in agriculture; and
- ❖ **Other Issues:** decontamination, engineering controls, WPS risk assessments, inter-agency coordination, funding, and the national assessment process.

[NOTE: the full Austin Meeting Report provides a more complete record of the specific concerns and recommendations that were identified by stakeholders during the small group break-out sessions and general meeting discussions.]

Next Steps

The Austin meeting represents a significant milestone in initiating the national assessment and setting a course for the process, but it is important to note that the WPS assessment is an ongoing process. EPA is seeking the involvement of stakeholders who wish to participate in the next steps of the national assessment process but were unable to attend the Austin meeting. Next steps include:

❖ Creation of WPS Assessment Work Group and Working Committees

As part of the national assessment, EPA intends to form a “WPS Assessment Work Group.” This workgroup will help provide direction to the assessment process, the different assessment working committees, and the overall WPS program. The workgroup will be comprised of representatives from EPA, Departments of Agriculture, Labor, and Health and Human Services, state regulators, state extension service safety educators, farm worker advocacy groups, farm worker service/training associations, agricultural employer associations, farm worker clinicians networks, and other interested stakeholders.

One of the cornerstones of the proposed assessment process is the formation of a number of small working committees that will more thoroughly focus on and address the broad themes areas and underlying issues identified in Austin. The assessment working committees will be made up of representatives from the WPS stakeholders who have volunteered to be active participants in the assessment process.

2. Additional Stakeholder Meetings

The Austin meeting was only the first of three stakeholder meetings that are being held to invite stakeholder participation in the national assessment effort. The Agency is planning two additional stakeholder meetings that will invite continued input on the WPS program and the national WPS assessment process. The two remaining stakeholder meetings are being planned for different regions of the country to assure that different regional perspectives are adequately represented in the assessment process.

The next stakeholder meeting will be held in Sacramento, California, in December 2000, and a third stakeholder meeting will be held in Orlando, Florida in the Spring of 2001. EPA will be disseminating additional information about the arrangements for the next stakeholder meetings as soon as it becomes available.

For More Information

For more information about the status of the national assessment process, plans for future stakeholder meetings, or how to become involved in the various workgroups being formed, interested parties are encouraged to visit the Certification and Worker Protection Branch's web page (www.epa.gov/pesticides/safety) or call the Branch office directly at 703-305-7666.

Part I: Introduction

1. The Austin Meeting

On June 6-7, 2000, the U.S. Environmental Protection Agency (EPA) convened the “National Assessment of the Worker Protection Program - Workshop #1” in Austin, Texas. The Austin meeting represented the official launch of the Agency’s national assessment of the WPS program, beginning a multi-phase process that will take place over the next 18 to 24 months to conduct a comprehensive review of EPA’s worker protection program, including implementation and enforcement. The assessment will help the Agency determine whether the program is adequately meeting its intended goals of addressing the risks to agricultural workers.

The Austin meeting was the forum for EPA to publicly articulate its vision for the national WPS assessment and receive feedback on the proposed effort. The meeting also invited stakeholder participation in the assessment process. EPA feels it is critical to engage a broad array of WPS stakeholders in the assessment process, and the Austin meeting began the important work of generating a consortium of interested stakeholders committed to participation in the effort.

The Austin meeting generated much-needed input from stakeholders on the proposed structure and operation of the national assessment, and the key WPS program concerns/issues they felt EPA should focus on in its assessment of the program. EPA wishes to thank all the attendees of the Austin meeting for their participation in the initial stakeholder meeting and for their valuable contribution to the beginning of the assessment effort. EPA looks forward to continued stakeholder participation in the effort as the assessment process moves forward.

2. The Meeting Report

This report provides meeting participants and interested parties with a summary of the outcomes of the Austin meeting and a description of EPA’s effort to initiate and conduct its national assessment of the WPS program. The report is intended as a working/communications document to raise awareness about the national assessment, spark interest and discussion, and solicit wider stakeholder participation in the national assessment effort. Part I of the report provides the introduction and contains five sections:

- ❖ **The Austin Meeting**: an introduction to the Austin meeting and its purpose;
- ❖ **The Meeting Report**: an overview of the workshop report;

- ❖ **Background on the WPS**: a brief history and overview of the WPS program;
- ❖ **Rationale for the National WPS Assessment**: a discussion of the rationale for the national assessment of the WPS program; and
- ❖ **Goals of the National WPS Assessment**: an explanation of the goals and objectives of the national assessment.

Part II of the report contains the summary write-up of the outcomes of the Austin meeting and contains three sections:

- ❖ **Summary of Meeting and Outcomes**: a brief overview of the Austin meeting and a summary of the substantive outcomes;
- ❖ **Summary of Stakeholder Input**: a thorough record of the stakeholder input from the Austin meeting regarding concerns/issues with the WPS program; and
- ❖ **Next Steps**: a description of the next steps in the national assessment process.

An executive summary of the report is provided at the beginning of the report for those individuals who would like to know more about the results of the Austin meeting and national assessment effort, but may not be interested in reading the complete report containing the record of the stakeholder comments.

3. Background on the WPS

The revised Worker Protection Standard (WPS) regulation was issued by the U.S. Environmental Protection Agency (EPA) on August 21, 1992, but the rule did not become fully effective until January 1, 1995, due to a Congressional delay of the original implementation dates. The WPS was put in place to reduce the occupational risk of pesticide poisonings and injuries among agricultural workers and pesticide handlers on farms, forests, nurseries and greenhouses. The rule provides protections to over three and a half million people who work with pesticides at over 560,000 workplaces. The WPS contains requirements for:

- ❖ Pesticide safety training;
- ❖ Notification of pesticide applications;
- ❖ Use of personal protective equipment;
- ❖ Restricted entry intervals following pesticide applications;
- ❖ Decontamination supplies; and
- ❖ Emergency medical assistance.

The WPS represented a significant strengthening of the occupational protections for agricultural workers and involved substantial changes in agricultural practice for employers to comply with the new requirements. Implementing a standard as complex and comprehensive as the WPS required the Office of Pesticide Programs to undertake one of its most extensive regulatory implementation efforts ever. EPA had to conduct extensive outreach and communications with the affected regulatory community to help assure compliance with the WPS regulation.

The Agency has been engaged in its WPS implementation effort for five years now and has made significant progress in implementing the WPS program. During the past five years of implementation EPA has made several minor rule amendments and issued a number of WPS exceptions to address problems that were identified with the rule. EPA has also developed an extensive set of interpretive guidance enforcement policies for the WPS to address enforcement issues that have arisen.

For more information about the WPS or EPA's worker protection program, interested parties should visit the Certification and Worker Protection Branch's Web page on the Office of Pesticide Programs' Web site on the Internet at www.epa.gov/pesticides/safety. The Web site contains links for obtaining fact sheets and other WPS documents, as well as up-to-date information about the status of the national assessment effort.

4. Rationale for the National WPS Assessment

Several factors have convinced the Agency to initiate its national assessment of the worker protection program at this time. During the past five years EPA, worker advocacy groups, EPA's state regulatory partners, and other stakeholders in the program have identified a variety of problems associated with implementation of the WPS regulation. Stakeholders have made numerous recommendations to the Agency regarding WPS program enhancements and/or regulatory changes they see as necessary for the program to operate effectively. It is important that the Agency respond to these concerns in a way that builds stakeholder confidence in EPA's commitment to implementing the worker protection program.

The Government Accounting Office (GAO) recently issued a report on its study of EPA's worker protection program. The GAO report, entitled "Pesticides: Improvements Needed to Ensure the Safety of Farmworkers and their Children," contains a number of recommendations the GAO feels are important for EPA to act upon to address concerns with the worker protection program. The Children's Health Protection Advisory Committee (CHPAC) also identified areas of concern with the WPS program. The Agency responded to GAO and CHPAC regarding their recommendations and EPA agreed to assess its regulatory efforts to protect the health of agricultural workers and children working in agricultural areas to assure their respective concerns are addressed.

In order to successfully implement the WPS, the Agency also had to develop new partnerships to achieve its mission given the magnitude and diversity of the audience potentially affected by this regulation. The implementation effort included the development of numerous outreach materials for general program communications as well as educational materials and training resources for workers and handler training. EPA developed an extensive network of cooperative relationships that enabled the Agency to make significant outreach/education accomplishments within a relatively constrained resource base. Such cooperative efforts yielded important training partnerships with the Cooperative Extension Service (CES), educational institutions, worker advocacy groups, and other stakeholders. EPA feels it is important to evaluate which outreach methods/materials and partnership strategies have been most effective so that future resources are directed appropriately.

The Agency recognizes that a regulatory implementation effort of this magnitude requires periodic evaluation to gauge the success of the program in meeting its goals. Before EPA considers any significant program and/or regulatory changes, proceeds with new WPS initiatives, or acts on any of the various recommendations coming from GAO and/or other stakeholders, the Agency believes it is important to assess the current status of the WPS program to determine where improvements can be made so the program can evolve and continue to meet its intended goals of protecting agricultural workers. All of these factors have led to the launching of the national assessment.

5. Goals of the National WPS Assessment

The Agency is initiating its national assessment of the WPS program to assess the effectiveness of its WPS implementation and enforcement efforts, and help the Agency determine whether the program is adequately meeting its intended goals of addressing the risks to agricultural workers. The national assessment will include consideration of the GAO, CHPAC, and other stakeholder recommendations to determine an appropriate course of action for responding to the various program concerns/issues that have been brought to EPA's attention. The goals of the national assessment are to:

- ❖ Generate a consortium of interests committed to the WPS program and the assessment;
- ❖ Identify key stakeholder concerns/issues with the WPS program that need to be addressed;
- ❖ Assess the current program status and determine program needs and priorities;
- ❖ Develop a comprehensive set of recommendations for WPS program enhancements and possible regulatory changes that EPA should consider;
- ❖ Develop mechanisms to foster the partnerships that can effect positive change in the program and that will be essential to making the program work effectively; and
- ❖ Develop the infrastructure for a continuing forum that will address future WPS issues.

The national assessment will initially focus on the following key areas of EPA's worker protection program:

- ❖ Effectiveness of EPA's WPS implementation and enforcement efforts;
- ❖ EPA's oversight of state programs and the effectiveness and consistency of state implementation and enforcement of the WPS;
- ❖ Outreach and communications with the affected regulatory community and stakeholders;
- ❖ Scope, quality and delivery of worker and handler training programs;
- ❖ Special needs/concerns of children and pregnant women as agricultural workers; and
- ❖ Strategies for educating health care workers and the medical community.

The above list does not preclude another area of the WPS program from being included in the national assessment. EPA intends to solicit extensive stakeholder input to assure that all WPS concerns are identified and addressed during the assessment process. EPA wants to assure that all stakeholder perspectives are represented in the assessment process.

Part II: The Austin Meeting

1. Summary of Meeting and Outcomes

The Austin meeting was the first of three stakeholder meetings being held to invite stakeholder participation in the national assessment. The two remaining stakeholder meetings are being planned for different regions of the country to assure that different regional perspectives are adequately represented in the assessment process (more information on these meetings is provided at the end of this report under “Next Steps”).

EPA feels it is critical to engage a broad array of WPS stakeholders in the national assessment. The Austin meeting began the important process of building coalition of interested stakeholders that are willing to participate in the assessment effort and remain active in resolving WPS program issues and effecting positive change in the operation of the program. The primary objectives of the Austin meeting were to:

- ❖ Articulate the Agency’s objectives for the national assessment and outline the nature of the stakeholder participation being sought;
- ❖ Provide an opportunity for public input on the structure, design and operation of the national assessment;
- ❖ Give stakeholders an opportunity to identify WPS issues/concerns they think EPA should consider in its national assessment of the WPS program; and
- ❖ Have stakeholders identify key focal areas/priorities for the assessment.

The first half day of the two-day Austin meeting consisted of general presentations and panel discussions to provide participants with background information on the WPS program and provide an opportunity for a discussion of the goals and desired outcomes of the meeting as well as the overall assessment process. The remaining one and a half days took place in four small group break-out sessions that focused on identifying stakeholder concerns and gathering their input on four main discussion topic areas:

- ❖ WPS Outreach, Communications and Training Issues;
- ❖ WPS Enforcement Issues;
- ❖ Rethinking/Improving the WPS; and
- ❖ The Proposed Structure and Process for the National WPS Assessment.

The Agency received extensive comments from stakeholders during the break-out sessions, resulting in the identification of many specific concerns with the WPS program and its implementation. Stakeholders also provided input on the national assessment process and made numerous recommendations for WPS program improvements. The last part of the Austin meeting was dedicated to summarizing the concerns and issues raised by the various stakeholders in the break-out sessions and discussing the themes that emerged from the meeting. This process resulted in the identification of the following broad theme areas and underlying issues that will serve as focal points for the assessment process as it moves forward:

- ❖ **Training Issues:** funding and resource distribution, program and materials evaluation, handler training, training content, training quality and consistency, training materials, train-the-trainer networks, alternative training systems, re-training, and training record-keeping requirements;
- ❖ **Enforcement Issues:** funding, EPA oversight of state programs, quality and consistency of state WPS inspections, defining WPS inspection criteria, national reporting, WPS penalty policy, incident reporting and tracking, and community/advocacy group involvement;
- ❖ **Complaint and Retaliation Issues:** improving the complaint process, educating workers on WPS and the complaint process, and resolving retaliation problems;
- ❖ **Communications Issues:** general WPS outreach with stakeholders, hazard communication information for workers, language and cultural barriers, and outreach and coordination with health care providers;
- ❖ **Children's Health Issues:** adequacy of the WPS restricted entry intervals for protecting children under 12 years of age, special provisions needed for protecting children, and appropriateness of children working in agriculture; and
- ❖ **Other Issues:** decontamination, engineering controls, WPS risk assessments, inter-agency coordination, funding, and the national assessment process.

The above themes represent those broad areas of the WPS program that were consistently identified as areas of concern. Stakeholders agreed that EPA should focus on these areas in its national assessment of the worker protection program. These themes also represent the key focal areas that EPA will likely form assessment working committees around. It should be noted that other issues may be identified as the assessment process moves forward, and issues may be grouped differently depending on the number of assessment working committees formed.

2. Summary of Stakeholder Input

The following section of the report attempts to capture all the salient points raised by stakeholders in Austin. EPA has strived to capture the basic context of the various stakeholder discussions. Where appropriate, similar comments, concerns and recommendations have been combined or abbreviated. It is important to note that inclusion of a particular comment or recommendation in this report does not necessarily reflect stakeholder consensus on the item. It is also important to note that inclusion of a particular comment/recommendation in this report does not reflect EPA endorsement of an item. The Agency will consider all comments received from the stakeholder meetings and respond appropriately as the assessment process moves forward.

The stakeholder input is organized according to broad themes noted in the previous section. Several issues were identified and discussed at the Austin meeting that did not constitute major themes on their own, but stakeholders felt they should be addressed in the national assessment. These issues have been grouped together under item number VI, “Other Issues.”

I. Training Issues

Stakeholders identified a wide array of concerns regarding training issues. There was general consensus that training issues should be one of the primary areas for focus in the assessment. The stakeholder comments on training issues have been organized according to the following key sub-topic areas under training:

- ❖ **Funding and Resource Distribution;**
- ❖ **Program/Materials Evaluation;**
- ❖ **Handler Training;**
- ❖ **Training Content;**
- ❖ **Training Quality and Consistency;**
- ❖ **Training Materials;**
- ❖ **Train-the-Trainer Networks;**
- ❖ **Alternative Training Systems;**
- ❖ **Re-Training; and**
- ❖ **Training Record-keeping Requirements.**

Funding and Resource Distribution:

Many stakeholders expressed the need for more funding for training programs and training networks because adequate resources for the program are not being sustained. Most people felt the WPS program is severely under-funded and felt EPA and the states can not be successful in accomplishing the mission of the program without additional funding. Participants also expressed concern with the distribution of training resources. People felt there is a wide disparity in the distribution of resources such that some regions of the country suffer from inadequate resources causing weaker state WPS programs.

Stakeholders made the following recommendations:

- ❖ **EPA should explore alternative ways to supplement funding for the WPS program such as additional fees on pesticide registrations, a pesticide manufacturers' tax, or use of penalties; and**
- ❖ **EPA should address resource distribution problems and allocate resources more efficiently and equitably.**

Program/Materials Evaluation:

There was general consensus that there needs to be greater effort devoted to evaluation of the training programs, training content and materials, train-the-trainer networks, and the overall training requirement to see what is working and what is not. People expressed the need for better evaluation tools and measures for the WPS program. Stakeholders felt that if EPA conducted meaningful evaluations it would provide the types of data needed for better measures of success for the WPS program.

Stakeholders made the following recommendations:

- ❖ **EPA should evaluate the training requirement based on evidence of change in behavior rather than counting the number of people trained;**
- ❖ **EPA should hold more focus groups with workers to determine whether training is adequately addressing workers' needs;**
- ❖ **EPA should work on collecting data that would enable EPA to determine whether the training being provided is changing behavior and resulting in risk reduction; and**
- ❖ **EPA should conduct program evaluations that will produce the data and**

measures needed to substantiate that worker training is resulting in risk reduction (through fewer incidents and fewer reported injuries). This could help growers reduce costs (through lower insurance & health care), which would improve acceptance of the training requirements by employers and improve compliance.

Handler Training:

Most of the input received on training issues was specific to the worker training aspects of the training requirements, but there were several comments which pertained to handler training. Many participants felt that having both worker and handler training requirements under the WPS creates confusion. It was noted that many employers don't understand which training should be given to their employees because WPS worker and handler definitions are not widely recognized and employers don't understand the distinction between worker and handler tasks. Worker advocates noted that workers are often asked to do handling tasks even though they have not been given handler training, and this results in workers who are not appropriately trained to perform handler tasks or how to protect themselves when performing handler duties.

People generally agreed that handler training should be separated out from the WPS and dealt with exclusively under the Certification and Training (C&T) and Pesticide Applicator Training (PAT) programs which are operated by EPA and the Cooperative Extension Service (CES) through the states. Participants cited the following reasons for making such changes to the WPS and C&T/PAT programs:

- ❖ People felt most employers are not capable of delivering proper handler training given the higher levels of skills and knowledge needed by handlers, the greater complexity of the training materials, and the more advanced learning objectives for handler training;
- ❖ Participants felt that the C&T/PAT program is better equipped to deliver handler training and meet handler training needs;
- ❖ It was pointed out that the WPS creates a different regulatory standard for pesticide handlers in agriculture versus pesticide handlers in non-agricultural settings in terms of training requirements, and participants thought this inconsistency creates confusion and should be remedied;
- ❖ Many people thought that if the WPS only covered workers it would eliminate some of the regulatory confusion over the proper training for workers versus handlers; and

- ❖ CES representatives noted that the C&T/PAT program has already absorbed most of the burden for handler training, and moving handler training would be consistent with the Certification and Training Assessment Group (CTAG) recommendations for the C&T program (it was noted that taking on the responsibility for training all pesticide handlers would overwhelm the system unless more resources were appropriated for the program).

Stakeholders made the following recommendations:

- ❖ **EPA should conduct outreach regarding the distinction between worker and handler duties and the corresponding training required for each group;**
- ❖ **EPA should take the regulatory steps to separate out the handler training provisions from the WPS and harmonize the WPS program requirements with C&T requirements to eliminate the overlap in the programs and operate handler training programs more efficiently.**

Training Content:

Several comments supported EPA revising the WPS requirements for the content of the worker training. Many people thought the current worker training is inadequate and too simplistic, and they felt the training should be more comprehensive. Worker advocates felt EPA should take steps to ensure the training content adequately addresses worker needs/concerns. Participants voiced the following concerns regarding the content of worker training:

- ❖ The current training does not adequately address the routes of exposure and does not go far enough in providing workers or handlers with complete information on the hazards and health risks of pesticides;
- ❖ The current training does not provide enough emphasis on the serious health risks from pesticides. Training should “scare” workers about the risk from pesticides to prompt them to pay more attention to training;
- ❖ Training should not be too alarmist because it is not scientifically supported, it is misleading, and it results in frivolous lawsuits and false worker compensation claims;
- ❖ The current training does not provide chemical specific information to workers and does not provide information on the pesticides they may encounter in their workplace (it was noted that if employers had to disclose information about the toxicity of the products they use it may encourage farmers to switch to less toxic

- pesticides and lower risk alternatives);
- ❖ Workers need better information on how to prevent and mitigate pesticide exposures;
 - ❖ The current training does not adequately cover the use of personal protective equipment (PPE) and the importance of PPE in protecting workers from exposure; and
 - ❖ The current worker training does not include adequate information about worker rights, how to file complaints, and how to protect against retaliation.

Some people felt that training content should differ depending on the region of the country and the different sectors of agriculture encountered. They felt training content should be geared to the specific pesticides and use patterns associated with different agricultural sectors. Others felt that the migrant nature of workers would make it difficult to know which sectors workers may have been trained in and whether previous training was adequate for their new locale.

Stakeholders made the following recommendations:

- ❖ **EPA should revise the WPS requirements for the content of the worker training to address the concerns raised by stakeholders;**
- ❖ **EPA should survey workers to ensure that training content adequately addresses worker needs/concerns; and**
- ❖ **EPA should develop the appropriate content for worker training through the assessment workgroup process.**

Training Quality and Consistency:

Many people expressed concerns with the variability in the quality of training across the country. Several comments pertained to the need for greater incentives to promote better acceptance of training and better compliance with the training requirement. People felt that having financial incentives for both the employer (lower insurance rates, fewer fines) and the workers (pay for time in training) would improve the quality and acceptance of training and promote compliance with the training requirement. Worker advocates felt strongly that workers should be paid for the time they are in the pesticide safety training. They noted that this would improve worker interest in the training and it reflects a commitment on the part of the growers that training is an important part of the job.

Some participants felt the WPS should be changed to require testing for comprehension. It

was noted that hazard training under OSHA requires determination of comprehension. Others felt that testing would be too burdensome and such a requirement would be a logistical nightmare for employers and too difficult for states to enforce. Many comments focused on the simple need for EPA to realize that “one size does not fit all,” and it was pointed out that EPA needs to be flexible and support a variety of training options. Many comments focused on ways to improve the quality/consistency of worker training programs. Participants made the following points concerning training quality and consistency:

- ❖ Training needs to engage workers in the training, and training should be done in small groups that facilitate interactive training;
- ❖ Peer education should be emphasized to give workers a chance to interact and share personal experiences during the training (it was noted that workers will be more likely to take training seriously if other workers were involved in the training and provided first-hand accounts of incidents that other workers could relate to);
- ❖ Trainers must have credibility for workers to accept the training, and employers/trainers need to demonstrate a concern and understanding of worker issues for workers to respect the information that is provided (if workers sense that employers “are doing this because they have to,” it diminishes the value of the training to the workers);
- ❖ Workers must feel the government is committed to enforcing the laws or workers will not feel the training is worthwhile if they don’t see there are consequences for non-compliance and workers will ignore training principles if workers perceive they won’t be protected from retaliation (e.g., they will go into a field under an REI even though they have been trained not to do so because they fear they will lose their job otherwise);
- ❖ Growers aren’t qualified to do training and they are using training materials that are ineffective and do not promote interactive training (participants noted that employers are the primary trainers of workers but often employers and growers are not qualified to be trainers);
- ❖ Training at the field is not working even though this is where many employers and labor contractors have to provide training because of logistical problems. Such field site training is generally not interactive and promotes an environment where workers just want to get done with the training so they can get to work and start making wages (it was noted that paying workers for time in training would help alleviate this problem);

- ❖ Training is more effective when it is done at labor camps and other sites that put workers at ease and promote more interactive training environments;

Stakeholders made the following recommendations:

- ❖ EPA needs to provide employers with better options for getting their workers trained in a way that delivers high quality training and can be done as needed so farm operations are not disrupted;
- ❖ EPA should develop and showcase better training models;
- ❖ EPA should use California's training program as a model for EPA to develop a national program;
- ❖ EPA should fund more pilot training programs and work with advocacy groups to develop a better network of trainers and training programs;
- ❖ EPA and states should work with trainers that have built trust at the community level to form a training network that is better accepted by the farm worker community;
- ❖ EPA should build more community based training networks and try using different levels of government to accomplish the training;
- ❖ EPA should recognize the Farmworker Labor Organizing Committee (FLOC) training program as a nationally approved training program (it was noted that FLOC would be willing to use their extensive network to train workers if EPA would grant recognition to their program);
- ❖ The current WPS provisions which permit certified applicators to be trainers should be eliminated;
- ❖ EPA should set national standards on what passes for acceptable worker training to improve the consistency and quality of training programs;
- ❖ EPA should work with insurers to consider risk reduction savings for growers that provide quality worker training based on the change in behavior and lower occupational risks that result from such programs; and
- ❖ EPA should recognize that training is a dynamic process and curriculum needs to be continually revisited/revised; and training programs need to

evolve as workers' knowledge improves and training needs change.

Training Materials:

Many comments asserted that current training materials are not adequate and there is a need to develop new training materials. Many people commended EPA for the effort and resources that have been devoted to getting initial training materials developed, but many people felt that the current curriculum is ineffective and needs to be updated. People felt that most existing training materials do not promote interactive training and it was noted that plugging in a training video as a training program is inadequate. Participants also felt that most training materials in existence lack appropriate learning objectives, and there is a lack of materials that are specifically oriented to the farm worker community.

Stakeholders made the following recommendations:

- ❖ **EPA should develop training materials and programs that encourage interactive training;**
- ❖ **EPA should do more direct grants to states and advocacy groups to develop new training materials;**
- ❖ **EPA should assure that training materials are age appropriate (i.e., if children are out there and working they need to be trained with proper materials, and those may need to be different than adult training materials), culturally sensitive, and developed using a framework that farm workers understand;**
- ❖ **Training materials should be developed in the appropriate language of the targeted farm worker community and translations should be reviewed in focus groups with actual workers to assure that materials are effective;**
- ❖ **EPA should assure that training materials have clear learning objectives that are appropriate for the farm worker community;**
- ❖ **EPA should maintain an up-to-date catalog of existing training materials and develop a distribution system to enable everyone to have access to these materials; and**
- ❖ **There should be a centralized training materials resource center established so people know who and where to call for training materials, and this center should be given appropriate resources to be sustained.**

Train-the-Trainer Networks:

Stakeholders generally agreed there is a need for better train-the-trainer programs. People felt that a strong train-the-trainer network is essential to improving the overall quality of training being provided. Some participants commented that the approval process for train-the-trainer programs is too inconsistent from state to state, and some felt there has been a bias toward not approving community-based or advocate-based train-the-trainer networks.

Stakeholders made the following recommendations:

- ❖ **EPA should to develop a national train-the-trainer network;**
- ❖ **EPA should showcase model train-the-trainer programs that are already in place and working effectively;**
- ❖ **EPA should provide more support for community-based and/or advocate-based train-the-trainer networks;**
- ❖ **EPA should develop a national train-the-trainer program approval process that does not leave it up to each state to have to recognize and/or approve multi-state train-the-trainer programs;**
- ❖ **EPA should establish clear national criteria for states to follow for approval of state train-the-trainer programs, and EPA should work with states to assure there is consistency at the state level in approving state train-the-trainer programs; and**
- ❖ **EPA's criteria for approving train-the-trainer programs should require information on teaching methods specific for farm workers, information on teaching methods for adult learners, information on how to resolve problems with language and cultural barriers, minimum standards for content of training programs, provisions for periodic independent oversight of training programs, and defined recertification times for trainers.**

Alternative Training Systems:

Several comments focused on the need to develop alternative training systems. Many people felt EPA should take better advantage of existing resources that are not being fully utilized such as AmeriCorps, 4H, and “grass-roots” organizations that train workers or have train-the-trainer networks. It was noted that worker advocate organizations and unions such as FLOC are well positioned to do training. Most people agreed that these types of programs are more likely to reach

farm workers where they live, and these programs generally provide more interactive training that is higher quality and better accepted by the farm worker community.

Some people felt the CES/Land Grant University system could play a greater role in providing training and noted that EPA should work with these entities to establish an agriculture curriculum that could be accessed online. Others felt that this type of system would not be an appropriate medium for training workers and it would be of little use to most growers. Some participants noted that such a system could prove useful for train-the-trainer networks. Many people felt USDA should assume a greater role in the worker training effort since farm labor is so integral to the nations' agricultural economy. It was noted that worker training could be integrated with other USDA programs like food stamps, FNEP, and other USDA community outreach programs. Comments also suggested linking WPS training with other agency programs and initiatives such as Health Education Centers, Migrant Head Start, and day care programs.

Stakeholders made the following recommendations:

- ❖ **EPA should expand funding for development of alternative training systems and provide more support for existing community-based and/or advocate-based training programs.**

Re-Training:

Many participants felt that farm workers should receive training more than once every five years. There was no consensus on how often re-training should occur, but most people generally agreed that training every five years is insufficient. Some felt training should be conducted annually and other disagreed. It was pointed out that if training was more comprehensive and effective, annual re-training would not be as necessary. Some comments favored periodic comprehensive training (e.g., every three to five years) combined with a requirement for shorter pesticide and site specific training/notification that would be given to workers when they arrive at each work location.

Stakeholders made the following recommendations:

- ❖ **EPA should change the re-training interval for worker training to a period less than five years; and**
- ❖ **EPA should use the assessment workgroup process to determine the appropriate re-training interval for worker training.**

Training Record-keeping Requirements:

There was general consensus among stakeholders that there should be a requirement for some form of documentation or written record of WPS training for workers and handlers. Many regulators felt the training requirements are very difficult to enforce without corresponding record-keeping

requirements. It was noted that one state legal counsel was unwilling to pursue cases involving violations of the training requirement when the WPS doesn't require record-keeping for training verification. Many people commented that there needs to be a better national training verification system.

Several people commented that it is the grace period for worker training that really complicates enforcement because it permits workers to be employed on an establishment without receiving training (or needing verification of previous training). People felt the grace period in the current regulations creates a different standard of protection for workers versus handlers and it trivializes the risks to workers and diminishes the importance of the worker training from both an employer and worker perspective. It was suggested that if all workers had to be trained before working on an establishment, and employers had to maintain records documenting that training occurred or that workers possessed a valid training verification card, it would be very easy to enforce the worker training requirements.

Stakeholders made the following recommendations:

- ❖ **EPA should require employers to keep records to document training of workers;**
- ❖ **EPA should develop a functional training verification system that is operated at the national level in conjunction with a national train-the-trainer program; and**
- ❖ **EPA should eliminate the grace period in the worker training provisions and require all workers to be trained before they enter treated areas or perform hand labor tasks just like the corresponding handler training provision requires handlers to be trained before they handle pesticides.**

II. Enforcement Issues

Stakeholders identified a wide array of concerns regarding enforcement issues. There was general consensus that there are significant concerns with WPS enforcement, and stakeholders felt enforcement issues should be one of the primary areas for focus in the assessment. Stakeholder comments on enforcement issues have been organized according to the following key sub-topic areas under enforcement:

- ❖ **Funding;**
- ❖ **EPA Oversight of State Programs;**
- ❖ **Quality and Consistency of State WPS Inspections;**
- ❖ **Defining WPS Inspection Criteria;**
- ❖ **National Reporting;**
- ❖ **WPS Penalty Policy;**
- ❖ **Incident Reporting and Tracking; and**
- ❖ **Community/Advocacy Group Involvement.**

Funding:

Many stakeholders expressed the need for more funding for state inspectors and increased compliance monitoring. Many participants felt that current enforcement efforts are inadequate, noting that more resources are needed to increase field presence. Most participants generally agreed that effective compliance monitoring and enforcement is key to successful implementation of the program, but most people also felt that EPA and the states can not be successful in accomplishing the mission of the program at the current funding level.

Stakeholders made the following recommendations:

- ❖ **EPA should seek appropriation of additional funding for a coordinated incident reporting program and for outreach to health care providers;**
- ❖ **EPA should work on developing jointly funded projects with the Departments of Labor and Health and Human Services Federal to leverage more funds for the program; and**
- ❖ **EPA should explore alternative ways to supplement funding for the WPS program such as additional fees on pesticide registrations, a pesticide manufacturers' tax, or use of penalties.**

EPA Oversight of State Programs:

Many stakeholders expressed concern that EPA is not assuring proper oversight of state programs, and it was felt that there is a need for greater EPA oversight presence in the field. Participants questioned the nature of EPA's oversight role and the nature of the EPA/State relationship. People were unclear how the oversight process works, and what the Agency's specific authorities are with respect to oversight. People agreed that EPA needs to make its oversight of state programs a more transparent process.

Several comments focused on the concerns with having State Departments of Agriculture as the State Lead Agency (SLA) and the agency responsible for WPS enforcement. Many people felt this situation created a built in conflict of interest creating a circumstance akin to "the fox guarding the hen house." People felt the Departments of Agriculture are not as likely to be aggressive in their WPS enforcement approach because of their state role as advocates for agriculture and pressures from the grower community that influence Agriculture Commissioners and the direction that some Departments take on compliance activities. Other comments pointed out that there is a system of checks and balances built into the system and that states could lose enforcement primacy if EPA determines they are not enforcing the regulations adequately. It was noted that EPA does not determine which department is the SLA in a state. This decision is up to the governor in each state and EPA has no control over that decision. It was pointed out that several states have other departments or agencies as the SLA for pesticides. Participants generally agreed that EPA needed to improve its oversight of state programs in order to remedy the above problems and misconceptions.

Stakeholders made the following recommendations:

- ❖ **EPA should make the oversight process more transparent so stakeholders can understand the nature of the EPA/state interface;**
- ❖ **EPA should build better oversight capacity, maintain a stronger oversight role, and take actions to address state non-performance with respect to WPS implementation and enforcement;**
- ❖ **EPA should clearly define performance standards for states and establish clear policy for failure to meet standards;**
- ❖ **EPA should establish an oversight committee that will review the states' implementation of the WPS. The committee should have farm worker representation, the authority to review state programs and case files, and the ability to make recommendations to EPA on possible actions needed to address state problems;**

- ❖ **EPA should require each state to set up some form of multi-agency case review board to ensure implementation of the WPS is not influenced by state politics;**
- ❖ **EPA should conduct annual public WPS oversight meetings in each state to allow public review of the states' WPS implementation. The meetings should include appropriate EPA and SLA staff, and all stakeholders groups should be invited to participate in the meetings;**
- ❖ **EPA should conduct periodic stakeholder meetings (like this one in Austin) to bring oversight issues to EPA's attention;**
- ❖ **EPA should conduct unannounced oversight/monitoring of state inspections; and**
- ❖ **EPA should get more Headquarters and Regional Office staff into the fields to work with states on WPS inspections so EPA can see the WPS compliance problems that SLAs encounter.**

Quality and Consistency of State WPS Inspections:

Many comments focused on the quality of state WPS inspections and the lack of consistency in state inspections. Some participants felt that most WPS inspections are poor quality and do not detect violations. Several people felt the lack of inspection criteria and poor EPA oversight are partially responsible for the lack of consistency in WPS inspections across the country.

Several people expressed concern that there are no national criteria or standards in place for determining what constitutes a "quality" or "comprehensive" WPS inspection. Some states noted that comprehensive WPS inspections are very resource intensive and can take days to complete so they do not always conduct a comprehensive point-by-point investigation during a routine use inspection. Several participants commented that states are not conducting enough unannounced "routine" inspections and many comments voiced support for more comprehensive routine (unannounced) inspections because these types of investigations are needed to assure effective compliance. It was pointed out that more money is needed for inspectors and enforcement training if people want to increase the number and quality of inspections.

A number of stakeholders felt that states are not conducting enough interviews with workers during WPS inspections, and they felt inspection quality was tied to the ability of inspectors to conduct effective interviews of workers. Participants identified the following concerns regarding worker interviews and inspection quality and consistency:

- ❖ Inspectors usually only talk to growers during inspections and do not interview workers, and therefore inspections are biased;
- ❖ Language barriers can make it difficult to interview workers and it is often hard to locate workers for interviews;
- ❖ It is a challenge locating workers that are willing to talk to inspectors because workers are often reluctant to be interviewed;
- ❖ Workers often move on before an inspector can conduct an inspection so this impedes the chances of doing a thorough follow-up investigation on a complaint when workers are no longer available;
- ❖ States need to improve their response time on complaints so they can talk with migrant farm workers before they move on, and inspectors need to act fast when they get a complaint, provide rapid follow through on investigations, and keep workers or workers' representatives abreast of the case status in the event more information is needed;
- ❖ Inspectors should conduct interviews away from the work site at places such as worker camps or other locations where workers will not fear retaliation from the employer and will be more willing to talk openly with inspectors;
- ❖ Interviewing workers off-site is often difficult because of work hours and other logistical considerations, but such practices result in better information from workers and a better investigation so states should be more flexible in their approach to investigating WPS cases;
- ❖ Inspectors must be able to communicate with workers in their language in order for an interview to yield accurate information;
- ❖ There is a need for more bilingual inspectors and the use of interpreters and other resources (e.g., AT&T language lines, translator software, etc.) to improve communications with workers and the quality of interviews;

There was general consensus among participants that better enforcement training was needed across the board on all aspects of conducting WPS inspections and use investigations in general. It was noted that some inspectors were unaware of the WPS Interpretive Guidance Workgroup (IGW) policies that have been developed, and people agreed there should be more outreach to communicate IGW policies to field inspectors. Many participants commented that there are a number of problems with the rule that cause an inaccurate perception of the quality and consistency of state inspections

and state WPS enforcement programs. People felt some WPS provisions are unenforceable and other provisions are virtually impossible to comply with. Stakeholders identified the following problems with the WPS:

- ❖ The grace period in the worker training provisions combined with the lack of record-keeping make the training requirement for workers very difficult to enforce;
- ❖ The WPS lacks the documentation requirements that enable enforcement. The WPS does not have the appropriate record-keeping requirements under the training provisions to allow inspectors to adequately document violations that have allegedly occurred;
- ❖ Complainants have unrealistic expectations for enforcement action given the problems with the lack of substantiating evidence, workers that don't want to be interviewed, and the unenforceable nature of certain provision;
- ❖ Complainants have an inaccurate perception of state enforcement because they don't understand evidentiary procedures and they expect states to take enforcement action based on their testimony alone;
- ❖ The training requirements, oral notification requirements, and retaliation provisions need to be evaluated during the assessment process because of the problems with documenting alleged violations in these areas;
- ❖ The WPS results in too many cases where the only evidence that can be collected is "he said, she said" affidavits which makes enforcement action difficult;
- ❖ The information exchange provisions and the requirement for information about pesticide applications under the central posting provisions are difficult for growers to understand and keep up with or comply with; and
- ❖ People can not expect 100% compliance with the WPS because it is too difficult to understand and there are some provisions that are virtually impossible to comply with.

Stakeholders made the following recommendations:

- ❖ **EPA should consider rule changes to address the problems identified with unenforceable provisions and provisions that are resulting in significant compliance problems because of the impractical nature of the requirements;**

- ❖ EPA should place more emphasis on conducting interviews with workers during WPS inspections, and EPA should make worker interviews a requirement for comprehensive WPS use investigations;
- ❖ EPA should provide more training opportunities for inspectors overall, and EPA should provide specific training for inspectors on how to conduct worker interviews (e.g., location, timing, building trust, addressing cultural and language barriers, etc.);
- ❖ EPA should provide specific training for inspectors on the WPS/IGW enforcement policies to improve the consistency in state inspections;
- ❖ EPA should reactivate the IGW process to address new WPS enforcement policy issues that have arisen and to revisit some previous policies that are a concern to states and/or stakeholders;
- ❖ EPA should develop better guidance for enforcement programs and establish protocols for inspections and investigation practices that address proper response times, sampling, how to obtain medical records and other supporting documentation, responding to complaints, and interviewing workers; and
- ❖ EPA should establish formal agreements with states that set forth the number of “comprehensive” WPS inspections that must be conducted and which meet minimum standards established in accepted national criteria.

Defining WPS Inspection Criteria:

There were many comments concerning WPS inspection criteria and the need for a national definition or minimum standard to address inspection quality and consistency problems and oversight issues. Participants felt that setting inspection standards is an important precursor for inspection consistency and it would facilitate collection of standardized data, uniform national reporting and better compliance trend analysis. People felt that a national checklist would help standardize inspections. It was noted that the WPS is too complex for inspectors to remember all the requirements that need to be reviewed during an inspection, and a national inspection checklist would be an essential tool for conducting thorough inspections that meet minimum standards.

Stakeholders made the following recommendations:

- ❖ EPA should develop national guidance that promotes standardized compliance monitoring throughout the states;

- ❖ **There should be national inspection criteria that sets a minimum standard for WPS inspections and clearly defines what constitutes a comprehensive WPS inspection;**
- ❖ **EPA should develop minimum standards for WPS inspections through the assessment workgroup process so that stakeholders can have input;**
- ❖ **EPA needs to develop a national inspection checklist that lists all the items required to be covered by inspectors during a comprehensive WPS use inspection; and**
- ❖ **EPA should define inspection standards that address protocols for sampling, obtaining medical records and other supporting documentation, and conducting interviews with workers.**

National Reporting:

The main focus of comments concerning national reporting was the need for consistency, transparency and better guidance. Many people questioned how EPA is tracking state WPS implementation and enforcement. People felt there is a wide disparity in state inspection numbers and enforcement quality and consistency. People felt EPA does not track state enforcement accomplishments close enough to adequately assess state enforcement programs, determine where problems exist, or gauge overall national program implementation success.

There were several comments noting that EPA's reports do not reflect the total picture of WPS implementation resulting in an inaccurate perception of the WPS program by the general public. It was noted that many people have misconceptions about the level of state WPS activity because states only report a fraction of their overall WPS activities to EPA because they are not required to report all state activities under the EPA Cooperative Agreement reporting process. It was pointed out that EPA has not provided any guidance to states on reporting and this results in different reporting from each state. It was also noted that the WPS is only one component of a comprehensive use inspection and many states/inspectors cover WPS during inspections but they don't treat it as a separate reporting item.

Stakeholders made the following recommendations:

- ❖ **EPA should produce an annual national report on the status of WPS implementation and enforcement for stakeholders and the public to review;**
- ❖ **EPA should establish clear reporting guidelines to promote universal understanding of what information EPA wants states to report;**

- ❖ **EPA should define WPS inspection criteria and develop consensus on what constitutes a comprehensive WPS inspection as an important first step to having meaningful national reporting that would be consistent in content and format from state to state;**
- ❖ **EPA should revise the current EPA “5700” reporting form because it does not yield any meaningful information except numbers of inspections, and those numbers are of little value since there is no accepted definition of a WPS inspection;**
- ❖ **EPA should be collecting information on the total number of WPS inspections conducted in each state and the corresponding number of violations recorded during those inspections along with the final enforcement actions and/or penalties assessed for the violations;**
- ❖ **EPA should collect information on the total number of WPS complaints recorded in each state and the results of the state response to the complaints (i.e., whether there was a follow-up inspection, what violations were detected, what penalties were assessed, etc.); and**
- ❖ **EPA should collect information on the nature of violations (i.e., failure to train workers, no decontamination sites, restricted entry interval violations, posting violations, improper PPE, etc.) so EPA can determine which parts of the rule are having the most violations and then direct future outreach efforts and target compliance monitoring activity accordingly.**

WPS Penalty Policy:

Several people expressed frustration with the lack of penalties being assessed by states, the variability in enforcement actions from state to state, and the overall failure of weak enforcement programs to be a real deterrent to WPS violations. Some people felt there needs to be a greater cost to employers for not complying with the WPS requirements, and they felt EPA and states needed to raise fines to deter WPS violations. Some people felt the WPS should contain penalty provisions that hold employers responsible for all health care costs if workers were injured from pesticides on the job, and this would make employers more likely to take the WPS and worker safety seriously. It was noted that some states have very stringent penalty policies which are much more severe than EPA and it would be difficult to adopt one national penalty policy that all states could agree to.

Stakeholders made the following recommendations:

- ❖ **EPA/states should provide greater transparency to the public on how**

penalties are assessed;

- ❖ **EPA/states should be able to demonstrate a clear rationale for any reduction of WPS penalties or any departure from penalty policy;**
- ❖ **EPA/states should develop more innovative penalty policy that encourages supplemental environmental projects (SEPs) that result in penalties being used to fund worker training programs or similar things where the workers see some kind of direct benefit from enforcement actions;**
- ❖ **EPA should revise it's penalty policy to increase penalties for WPS violations;**
- ❖ **EPA should review state penalty policies to promote national consistency in penalty policy and to make sure state penalties are appropriate for the violations;**
- ❖ **EPA should not allow states to maintain primacy unless their penalty policy is deemed adequate; and**
- ❖ **EPA should review state WPS cases during the assessment to assure that states are adhering to their penalty policies.**

Incident Reporting and Tracking:

There were many comments received on the issues of incident reporting/tracking and WPS coordination with the medical/health care community. The majority of comments focused on problems with physician recognition of pesticide illnesses, the lack of incident reporting and interagency coordination related to responding to pesticide incidents, and the need for a national pesticide incident reporting and tracking program.

Many people felt there is a need for a national health incident reporting and tracking system that requires mandatory physician reporting of pesticide related injuries/illnesses to EPA or the appropriate state agency, and which also entails incident follow-up and possible investigation. Most people felt that most states are not coordinating enforcement with health incident reporting and it was noted that there is very little effort nationally to investigate the possible connection between health effects and pesticide incidents. It was noted that several states have various forms of mandatory incident reporting programs, but there is wide variability among states regarding health incident reporting and coordination between enforcement programs and the medical community.

Stakeholders identified the following concerns regarding incident reporting and tracking

programs:

- ❖ Incident reporting programs are costly to operate, and EPA would need millions in additional appropriations to fund an effective national incident reporting and tracking program;
- ❖ State health and labor departments need to be engaged with SLAs and EPA to work on this effort because there are so many cross-jurisdictional issues that need to be considered;
- ❖ There is already a network of migrant health centers and services in most states that could provide a foundation of cooperators for an incident reporting program, but they aren't connected and don't communicate;
- ❖ The National Strategy for Health Care Providers is a good start toward improving the coordination with the medical community, but there is much more work that is still needed in this area;
- ❖ Strategies such as this are usually handled better at the local level;
- ❖ There are many logistical issues involved with coordinating the cross-agency agreements that are needed for an incident reporting program and it is often difficult establishing the links needed to make such programs work;
- ❖ State variability in responsible agencies, governing legislation, and medical record disclosure laws, etc., makes the process of establishing a national incident reporting and tracking system very difficult;
- ❖ There is a general ignorance of pesticide exposure symptoms in the medical community and this impedes proper diagnosis and reporting of pesticide incidents;
- ❖ Health care providers fail to report incidents because of the bureaucracy associated with reporting programs, and other mechanisms of reporting need to be considered since reporting by physicians (not just of pesticide exposure) is notoriously poor;
- ❖ Most health care practitioners are already overwhelmed with patient loads, insurance paperwork, and other more significant problems, and incident reporting is a real low priority for these people;
- ❖ The medical community just doesn't see the purported numbers of pesticide illnesses in farm workers alleged by advocate organizations. Medical problems

like hepatitis, diabetes, substance abuse, sexually transmitted diseases and other conditions represent a much larger share of the health problems that health care providers encounter with farm workers, and pesticide exposures are not as big a problem as some would want EPA to believe;

- ❖ Many state health departments cannot release the name of an individual involved in a pesticide incident unless he or she is willing to release their information and this complicates enforcement follow-up on reported incidents;
- ❖ Confirming pesticide poisonings means additional tests which are costly and most farm workers are unwilling to pay for the tests, but states have a hard time acting on a case unless there is a “confirmed” pesticide poisoning; and
- ❖ It is very difficult to investigate cases where the farm workers do not want to be identified and health care workers want to be kept anonymous as it presents evidentiary problems.

Stakeholders made the following recommendations:

- ❖ **EPA should develop a coordinated national incident reporting and tracking program, and the Agency should seek appropriation of additional funds to implement such a program;**
- ❖ **EPA should leverage resources from other agencies to support the incident reporting and tracking effort;**
- ❖ **EPA should work more closely with the Department of Health to facilitate incident tracking and reporting and overall coordination with the medical community;**
- ❖ **EPA should work with the appropriate state agencies to resolve the confidentiality issues with release of medical records;**
- ❖ **EPA should put more effort into the National Strategy for Health Care Providers;**
- ❖ **EPA should provide more outreach to the medical community on recognition and management of pesticide illnesses;**
- ❖ **EPA should place greater emphasis on educating the medical community on the health problems farm workers face as a result of occupational exposure**

to pesticides so that it is standard practice for a doctor to ask proper questions regarding field work and possible pesticide exposure when diagnosing farm workers;

- ❖ **EPA should facilitate coordination and communication between all the stakeholders that have a stake in incident tracking and reporting to take advantage of existing infrastructure; and**
- ❖ **EPA should develop a grant program to fund projects that work on building local capacity at the community level that will support incident tracking and reporting programs.**

Community/Advocacy Group Involvement:

A number of comments focused on the need to explore other alternatives for improving WPS enforcement through involvement of communities and advocacy groups. Worker advocates wanted EPA to give advocacy groups the authority to enforce the WPS since they would assure stricter enforcement. It was pointed out that such enforcement authority could not be granted by EPA because of strict regulatory policy governing delegation of pesticide enforcement authority. Advocacy groups would have to coordinate with the SLA and the governor in each state if they wanted to have any legally recognized authority or role in WPS enforcement.

Many people felt that community/advocacy group networks could play a valid role in WPS enforcement as an extra set of “eyes and ears” in the field. Several people felt such networks could help SLAs identify WPS violators, and they could also be used to help inspectors gain better access to workers. It was pointed out that such networks could be especially useful in rural areas to facilitate inspector communications with workers and worker cooperation with inspectors. It was noted that such networks could be used to educate farm workers on how to recognize and report WPS violations and how to know what information would be needed for investigating alleged violations. Some felt these networks could also assist farm workers with filing official WPS complaints with SLAs, and they could help SLAs by being a resource for gathering information needed to pursue a complaint. Some people envisioned the community networks having more of a mediation role. It was suggested that community networks could facilitate meetings and/or communication between inspectors, growers, and farm workers to improve mutual trust and enhance dialogue between the different parties. It was noted that such an effort would improve everyone’s understanding of WPS requirements and farm worker issues, and it would build an atmosphere of trust that would promote WPS compliance.

Stakeholders made the following recommendations:

- ❖ **EPA should work more diligently to establish networks with community/advocacy groups and other WPS stakeholders that could assist**

EPA with certain aspects of WPS enforcement.

III. Complaint and Retaliation Issues

Because of the number of comments received at the Austin meeting on complaint and retaliation issues, the topic was identified as one of the major theme areas to focus on in the WPS assessment. Accordingly, the summary discussion of the comments on complaint and retaliation issues has been broken out here to reflect the level of attention this subject received at the Austin meeting and to denote the priority of the topic as a WPS assessment issue. Stakeholder comments focused on three main areas under complaint and retaliation issues:

- ❖ **Improving the Complaint Process;**
- ❖ **Educating Workers on WPS and the Complaint Process; and**
- ❖ **Resolving Retaliation Problems.**

Improving the Complaint Process:

Stakeholders expressed general concern with the process for filing pesticide complaints with SLAs to report WPS violations. Worker advocates felt it needed to be easier for workers to file complaints and that more needed to be done to prevent and respond to retaliation aimed against workers for filing complaints and reporting WPS violations. Advocacy groups felt privacy issues are one of the biggest problems with the complaint process in most states.

Several people pointed out that the farm worker labor pool is made up of many illegal immigrants and these workers are afraid to file complaints because they are in the country illegally and want to remain anonymous for fear of deportation. Some people felt that creating a complaint process to protect illegal aliens was a conflict of interest for the government. Others noted that it is impossible to distinguish whether failure to file complaints is due to fear of retaliation or fear of detection because of illegal status, and they felt the complaint process should be fixed to protect legal workers who fear retaliation regardless of the fact that it also may protect illegal immigrants. Several people noted that both documented and un-documented workers are protected by WPS provisions since the regulation implies protection for any worker that is compensated by an employer for labor. Most people agreed that legal status should not even be considered a factor in the decision regarding how and why to protect complainants' privacy. Participants identified the following specific concerns with the complaint process:

- ❖ There should be a mechanism for filing anonymous complaints because it is important for workers' identities to be protected in enforcement investigation of complaints to prevent retaliation;
- ❖ State "open records" laws prevent many states from being able to keep farm worker identities confidential once a case has been concluded (it was noted that

often a farm worker must identify himself and sign a complaint or affidavit or the enforcement action the state can take is limited);

- ❖ States are not taking the appropriate steps to preserve worker confidentiality during the complaint process (it was noted that inspectors should try to interview complainants away from employers and after hours to try to protect privacy and prevent retaliation against workers);
- ❖ The threat of retaliation keeps workers from filing valid complaints because they know their identities will not be protected and they feel there is no substantial recourse for addressing retaliation;
- ❖ The lack of enforcement of the WPS, and particularly the retaliation provisions, has thwarted workers from believing in the complaint process;
- ❖ Retaliation problems are integrally linked to problems with the complaint process and the two issues must be addressed together in order to successfully resolve the problems;
- ❖ State regulatory business hours prohibit workers from being able to file complaints since they are working in the fields during those hours; and
- ❖ The timeliness of complaint response by states is too slow (it was noted that alleged health effects and human exposure incidents need to be documented within 48 hours or often it is too late to get confirmed diagnosis of the poisoning).

A number of people voiced support for a legislative proposal to add a “private right of action” clause to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the statute that governs Federal pesticide regulation. They felt there should be a legal framework that allows citizens to file their own lawsuits for enforcement of the WPS. Proponents of this idea noted that having such legal recourse would result in more effective enforcement actions, serve as a greater deterrent to violations because employers will quickly realize the costly potential of a lawsuit for noncompliance, and it would help address the problem of insufficient resources for enforcing the WPS. EPA officials noted that the Agency has no authority to create such a regulatory provision and this type of statute change would have to come from Congress.

Stakeholders made the following recommendations:

- ❖ **EPA should develop a more a responsive complaint process that addresses the unique needs of the farm worker community;**

- ❖ **EPA should require states to have a complaint prioritization system in place to assure that complaints involving critical health effects cases are given priority in terms of response time;**
- ❖ **EPA should develop training and guidance for state inspectors on how to work better with farm workers on complaint issues;**
- ❖ **EPA/states should take all available steps to preserve worker confidentiality during the complaint process in order to protect worker privacy and prevent retaliation against workers (i.e., inspectors should try to interview complainants away from employers and after hours);**
- ❖ **EPA should establish a national “hot-line” for workers to call to file complaints. The phone hot-line system should have toll-free access, be operated at hours that are conducive to workers calling, and have operators on hand to meet the diverse language needs of the worker population; and**
- ❖ **EPA should require states to designate a farm worker advocate/ombudsman in each SLA office to provide better service and response to the farm worker community.**

Educating Workers on WPS and the Complaint Process:

Many people expressed the need for workers to receive training on their WPS rights/protections and on how to file a complaint if they feel an employer has violated the WPS. Some advocacy groups indicated they are providing workers with this type of information in their training programs but this does not reach the majority of workers. Several people commented that “fact sheet” style brochures/outreach materials would be a good way to provide workers with this information. People thought brochures such as these could be disseminated by trainers and/or inspectors during worker training sessions, during inspections, or during visits to labor camps when conducting interviews with workers.

Stakeholders made the following recommendations:

- ❖ **EPA should assure that workers are getting information on how to initiate complaints (contact info for state agency, toll-free number, etc.), how to report retaliation, the importance of filing complaints in a timely manner so states are able to conduct an effective investigation, and what information workers need to provide to inspectors so a state can adequately investigate a complaint;**

- ❖ **EPA should develop a set of fact sheets for workers that cover various topics such as WPS rights and protections for workers, how to file a complaint, how workers can assist in the complaint process, and how to seek medical assistance;**
- ❖ **EPA should revise the WPS provisions concerning content requirements for worker training programs to incorporate the above topics into the required WPS training so that this material is standard content for all WPS worker training; and**
- ❖ **EPA should provide more support for advocacy-based training which addresses these issues more completely and gives better training with more usable information to workers.**

Resolving Retaliation Problems:

Most people agreed that retaliation is a significant problem area and participants felt this issue should be addressed in the national assessment. People noted that retaliation can come in several forms. Workers may not be fired outright, but instead they won't be hired the next time they come around for work on an establishment. It was pointed out that this form of retaliation is just as detrimental to workers. Stakeholders voiced the following concerns on the retaliation issue:

- ❖ The current WPS retaliation provisions are ineffective because there are no teeth in the rule to enforce the provision;
- ❖ It is extremely difficult for states to document retaliation which makes enforcement of the retaliation provisions virtually impossible;
- ❖ Many retaliation cases come down to "he said, she said" arguments where there are differing stories from the individuals involved but there is no other evidence to substantiate the alleged complaint;
- ❖ Many workers feel they are not protected from retaliation so they will not sign a complaint or sign a document to release medical information, and this creates a perpetuating problem that can only be fixed with strong enforcement against retaliation violations;
- ❖ Open record laws and similar state legislation that requires states to fully disclose the contents of enforcement cases makes it difficult to protect worker identities if the state needs their affidavit or medical records for evidence for an enforcement action;

- ❖ Landlord/tenant laws could be used as a model for developing stronger WPS retaliation provisions (it was noted that the California “tenant presumption of guilt law” allows a state to make a presumption of guilt that the landlord retaliated against the tenant if a tenant is evicted within 6 months of lodging a complaint against the landlord);
- ❖ There are glitches with the application of landlord/tenant laws to the WPS and agriculture as it is perfectly normal for employers to release workers from employment at various times during the season due to the temporary nature of seasonal labor (it was pointed out that the very nature of the work means employees are going to be let go when work is done and growers often hire workers for a short time and then release them);
- ❖ Employers would automatically be “set-up” if there was a presumption of guilt/retaliation provision in WPS that mirrored landlord/tenant laws;
- ❖ The Migrant Seasonal Labor Act (MSLA) has retaliation provisions that may be more applicable to the WPS;
- ❖ It is important for worker advocacy groups to notify authorities quickly when they learn of retaliation or there will be little chance for enforcement action; and
- ❖ Inspectors could help minimize retaliation by being more cognizant of retaliation issues when they respond to complaints and conduct interviews with employers and/or workers.

Stakeholders made the following recommendations:

- ❖ **EPA should adopt a “presumption of guilt/retaliation” provision in the WPS that provides for a legal determination of a violation of the retaliation provisions if a worker is fired within a defined time period after filing a complaint;**
- ❖ **EPA should not try to apply “tenant presumption of guilt law” to the WPS as the situation in agriculture is too dissimilar;**
- ❖ **EPA should refer to the MSLA for guidance on how to approach retaliation issues under the WPS;**
- ❖ **Inspectors should be trained on how to minimize the potential for retaliation**

to workers, and EPA/states should work with farm worker advocacy groups to develop such training so it covers the appropriate points; and

- ❖ **It should be mandatory for worker advocacy groups to be represented on all state agricultural boards so retaliation issues and other farm worker concerns are taken into consideration.**

IV. Communications Issues

Because of the complexity of the WPS and the diverse makeup of the affected/regulated community, there was general consensus among stakeholders that communications are an extremely important component of the WPS program and essential to effective implementation. Stakeholder comments clearly supported focusing on the broad spectrum of communications-related issues during the WPS assessment, and stakeholders identified critical communications issues they thought should be addressed. The major communications issues identified are:

- ❖ **General WPS Outreach With Stakeholders;**
- ❖ **Hazard Communication Information for Workers;**
- ❖ **Language and Cultural Barriers; and**
- ❖ **Outreach and Coordination With Health Care Providers.**

General WPS Outreach With Stakeholders:

Stakeholders felt there are still a large number of people affected by the WPS that do not understand the WPS or their roles and responsibilities under the regulation. Participants felt there is still a need for basic WPS outreach in many parts of the country. Many people commented that existing outreach materials (such as the “How to Comply” manual) are outdated or obsolete. Several people commented that they did not know what WPS outreach materials are available or how to obtain them.

A number of comments focused on the need for outreach on EPA’s process for establishing restricted entry intervals (REIs). Many people did not agree with EPA’s science behind REIs and they felt REIs are unrealistic. It was also noted that the “generic approach” for WPS labeling has slowly given way to product specific WPS labeling, and there have been significant label changes that are being implemented as a result of EPA’s reregistration program. Stakeholders noted that these changes have not been communicated to those who really need the information such as CES, state regulatory agencies, and the user community.

Participants identified specific outreach needs for the different segments of the WPS stakeholder community. The primary stakeholder groups and their corresponding outreach needs are identified below.

❖ **Regulators/Inspectors**

It was noted that states often experience a high turnover in inspectors and regulatory staff, resulting in loss of WPS expertise in some cases, and a continual need for WPS outreach, education, and training for state staff. States cited the need for better communications regarding EPA enforcement policies that were developed under the Interpretive Guidance Workgroup (IGW), and they also pointed out the need for better communications on rule amendments, exceptions and other WPS changes that have been put in place since original publication of the rule. Several people felt EPA needed to develop new inspector training materials and pocket guides.

❖ **Employers/Labor Contractors**

Many comments supported directing outreach efforts to labor contractors and crew leaders. People felt that labor contractors and crew leaders are often unaware of their responsibilities for training and notification, yet they play a critical role in communications between employers and workers as they are the ones who bring workers on to a farm and direct their activities. Stakeholders felt that outreach materials should be developed specifically for labor contractors and crew leaders to inform them about their roles and responsibilities under the WPS.

Many people felt that some growers still lacked the fundamental knowledge of the WPS needed to fully comply with their responsibilities under the rule, and they thought EPA should expand its effort to raise basic public awareness of the WPS. Some people felt EPA should focus on the “problem-areas” of the rule that consistently cause confusion and/or are frequently misunderstood by employers as well as state regulators/inspectors. People thought EPA should look at developing outreach materials to address these problem areas. The following WPS provisions were specifically cited by stakeholders as problem areas of the rule that create confusion and/or are poorly understood:

- ◆ Worker and handler task definitions (i.e., determining what protections and training must be provided for employees depending on tasks performed);
- ◆ Personal protective equipment (PPE) responsibilities;
- ◆ Central posting and notification requirements;
- ◆ Employer information exchange; and
- ◆ Greenhouse and nursery treated area definitions and entry restrictions.

❖ Workers/Handlers

Many people cited the need for more effective outreach to workers and recommended that more effort should be directed to outreach at labor camps. Worker advocacy groups noted that outreach through venues such as health clinics and churches are good, but they felt the vast majority of workers are single men who are not connected with these entities. Stakeholders recommended that EPA work closely with worker advocacy groups and other stakeholders to develop outreach materials for workers that had the right messages and addressed the full spectrum of worker needs such as their rights/protections under the WPS and how to file complaints.

Stakeholders made the following recommendations:

- ❖ **EPA should devote more resources for general WPS outreach, evaluate the utility and applicability of existing outreach materials, and produce new or revised materials where appropriate. People felt that EPA should involve stakeholders in the development process for outreach materials so that stakeholder needs would be more likely to be met;**
- ❖ **EPA should maintain a better catalog of the available outreach materials and improve public access to this information (it was noted that EPA should use its web site to facilitate public access to such information);**
- ❖ **EPA should make the process for how REIs are established more transparent;**
- ❖ **EPA should conduct outreach in connection with WPS labeling to make sure the affected/regulated community is aware of WPS label changes that are being implemented as a result of reregistration;**
- ❖ **EPA should develop distinct outreach strategies for the different segments of the WPS stakeholder community to address the unique needs and problems of various stakeholder groups (e.g., regulators, inspectors, trainers, educators, employers, labor contractors, workers, handlers, etc.); and**
- ❖ **EPA should use the assessment workgroup process to assist with identification of significant problem areas under communications, and stakeholders should be involved in the development of any new outreach materials so the materials are more likely to meet the needs of the intended audience.**

Hazard Communication Information for Workers:

Advocacy groups felt strongly that workers are not getting adequate information about the workplace hazards they are being exposed to. Many comments focused on problems with the central posting and notification provisions of the rule. Most stakeholders felt that the current central posting and notification requirements are not effectively meeting the intended goal of providing workers with information about applications and treated areas. Participants identified the following problems with the central posting and notification requirements:

- ❖ Central posting areas are not accessible to workers where they work;
- ❖ Central posting areas should be accessible to workers 24 hours a day;
- ❖ EPA needs a clearer definition/interpretation of what accessible means;
- ❖ Central posting information is not kept updated;
- ❖ Central posting information requirements are too cumbersome to maintain;
- ❖ Workers do not use central posting information (waste of resources);
- ❖ Instead of one central posting there should be multiple sites;
- ❖ Central posting information is impractical for large corporate farms;
- ❖ The central posting term is confused with “posting” of warning signs so there needs to be outreach to address this source of misunderstanding;
- ❖ Notification requirements are confusing, especially for greenhouses/nurseries;
- ❖ Oral notification is not happening, so signs should always be required;
- ❖ Workers don’t understand the oral notification;
- ❖ Workers need written information on treated areas;
- ❖ Signs work when used, but fields are not being posted appropriately;
- ❖ All treated fields should be posted with warning signs;
- ❖ There is confusion on who is responsible for notification;
- ❖ Growers shift their notification responsibilities to others (custom applicators, labor contractor, crew leaders, etc.) and it doesn’t end up happening;

Many comments focused on the need for a comprehensive hazard communication rule. It was noted that the current requirements make it too difficult for workers to obtain information about treated areas and pesticide specific information, and workers get too confused having to go to multiple sites and training for all the information they need. Although most participants agreed that EPA needed to develop a better system for communicating hazard information to workers, there was no clear consensus on the best way to make it happen.

Stakeholders made the following recommendations:

- ❖ **EPA should work on finalizing the hazard communication rule that was proposed in 1992;**

- ❖ EPA should consolidate worker training and hazard communication/notification requirements so that workers would have a “one-stop shopping” type of training that would provide all the training and information workers needed;
- ❖ EPA should assure that the new hazard communication rule addresses the problems with the current system identified on the previous page; and
- ❖ EPA should consider the following points when developing the new hazard communication requirements:
 - ◆ EPA should establish a very clear definition of hazard communication;
 - ◆ The rule should be enforceable and have proper documentation requirements;
 - ◆ Workers should have access to the pesticide labels for products used;
 - ◆ Pesticide labels should provide better information on risks to workers;
 - ◆ Use crop sheets for providing workers with pesticide specific information;
 - ◆ Make sure crop sheets contain the information workers need (include stakeholders in process of developing content requirements);
 - ◆ Realize that crop sheets have many drawbacks: they are costly to develop, must be updated regularly, must be in multiple languages to be effective, and it is a problem maintaining inventory;
 - ◆ Involve stakeholders in rule development; and
 - ◆ Make sure proposals are field tested and evaluated up front to see what works best in the real world.

Language and Cultural Barriers:

A number of comments focused on the inherent language and cultural barriers that must be overcome for successful WPS implementation.

Stakeholders made the following recommendations:

- ❖ EPA should develop training for inspectors on how to overcome cultural and language barriers so they can interact more effectively with non-English speaking growers and workers;

- ❖ EPA should provide more options to inspectors for resolving language barriers;
- ❖ EPA should develop WPS outreach materials for growers in multiple languages;
- ❖ EPA should use stakeholder involvement and focus groups in development of materials so that translations are accurate and deliver the desired message; and
- ❖ EPA should make sure workers are getting training in a language/manner they understand.

Outreach and Coordination With Health Care Providers:

Many comments supported the need for more outreach and better coordination with health care providers on WPS matters. Most coordination issues are captured in the incident reporting and tracking discussion under enforcement issues, but participants also made several recommendations specific to outreach and communication needs.

Stakeholders made the following recommendations:

- ❖ EPA should conduct more outreach/training for the medical community on recognition and management of pesticide poisonings/illnesses;
- ❖ EPA should integrate the National Strategy for Health Care Providers effort with the WPS program efforts and use the assessment process to develop a consolidated approach;
- ❖ EPA should develop and distribute guidance on the types of diagnostic tests and other documentation needed to substantiate pesticide poisonings; and
- ❖ EPA should provide clearer interpretative guidance for the medical community on the definition of emergency medical assistance and EPA's expectations under this provision.

V. Children's Health Issues

Participants agreed that the WPS assessment needs to address the issues raised by the Government Accounting Office (GAO) and Children's Health Protection Advisory Committee (CHPAC) regarding EPA's regulatory efforts to protect the health of children working in agriculture.

Although there was no clear consensus on how to resolve the various children's health issues, stakeholders did identify the key issues that EPA needs to address during the WPS assessment:

- ❖ The adequacy of the WPS REIs for protecting children under 12 years of age;
- ❖ The need for EPA to consider the unique pesticide exposure conditions that farm worker children encounter when conducting its risk assessments;
- ❖ The need for additional WPS provisions to adequately protect pregnant women and children; and
- ❖ The appropriateness of children working in agriculture and strategies for addressing the problem.

Many comments focused on the appropriateness of children being involved with agricultural labor and strategies to reduce or eliminate this practice. Many participants felt that the WPS is not the appropriate regulatory mechanism for addressing occupational health risks for children, and they thought OSHA should change its labor laws to prevent children under the age of sixteen from working in agriculture because of the hazardous nature of the work.

Most people agreed that EPA should focus on strategies for getting children out of the field, but they pointed out there are a number of obstacles to overcome first. Worker advocacy groups noted many migrant workers have no choice but to bring children with them to the fields since they don't have daycare options and they need the extra money that comes from their labor contribution. It was pointed out that getting children out of the fields won't completely resolve the problems anyway because labor camps and worker daycare facilities are often in the orchards and fields, and children are exposed to higher levels of pesticide residues in those settings.

Stakeholders made the following recommendations:

- ❖ **EPA should assure the WPS assessment addresses the issues raised by the Government Accounting Office (GAO) and the Children's Health Protection Advisory Committee (CHPAC) regarding EPA's regulatory efforts to protect the health of children working in agriculture;**

- ❖ **EPA should assure that worker training emphatically stresses the importance of keeping children out of fields because of potential health risks and possible developmental effects;**
- ❖ **EPA should work with worker advocacy groups to send a strong message to workers to keep children out of fields;**
- ❖ **EPA should take steps to address the other sources of pesticide exposure that farm worker children encounter (such as residues from drift, farm worker clothing, and residing in labor camps where residues may be higher);**
- ❖ **EPA should encourage advocacy groups to focus more of their resources on organizing and providing day care services for migrants so that farm worker children do not have to accompany workers in the fields (it was pointed out that if advocacy groups are truly concerned about reducing risks to farm worker children from pesticides they should provide more services which help to address the problem); and**
- ❖ **EPA should impose label restrictions that prohibit children from working in fields for those products that pose the greatest potential health risks to children.**

VI. Other Issues

There were a number of other issues raised and/or discussed at the Austin meeting that did not constitute major themes on their own and were not related to the five primary themes identified, but stakeholders felt the issues should be addressed in the assessment. These other issues are captured below:

Decontamination:

It was pointed out that there is a value and need for workplace shower and laundry facilities for workers given the risk to children and other family members from take-home pesticide exposure and the lack of access to those facilities for many farm workers at their homes. It was noted that EPA should consider how to assure such facilities are provided for farm workers to reduce personal and take-home pesticide exposures.

Engineering Controls:

A number of comments focused on the need for greater emphasis on engineering controls such as enclosed cabs, closed systems and PPE, and the need for stronger regulatory requirements for engineering controls under certain conditions.

Stakeholders made the following recommendations:

- ❖ **Expand requirements for enclosed cabs for certain types of high-risk pesticide applications;**
- ❖ **Require closed mixing/loading systems for all category I and II pesticides;**
- ❖ **Provide greater compliance incentives for adopting engineering controls (i.e., require cholinesterase monitoring for certain high toxicity pesticides if closed systems and enclosed cabs aren't used); and**
- ❖ **Promote research on PPE alternatives.**

WPS Risk Assessment:

Several comments focused on the need for EPA to make its occupational risk assessment decisions more transparent. A number of people felt EPA's occupational risk assessment methodologies were inappropriate and they thought EPA should get greater consensus/agreement from the scientific community on their decisions. Some participants felt that EPA's "transfer coefficients" are often unrealistic or based on outdated harvest techniques, and they wanted EPA to reveal more information about its data and assumptions. Several people felt there was a lesser regulatory standard of protection under FIFRA for occupational health risks versus dietary risks and these people thought EPA should apply the same regulatory standards for all its risk assessments.

Inter-Agency Coordination:

Participants commented repeatedly on the need for greater awareness and national attention to farm worker issues, and there was general consensus that resolving all the concerns will require a multi-agency approach.

Stakeholders made the following recommendations:

- ❖ **EPA should take the lead in coordinating an inter-agency workgroup with the Department of Labor and the Department of Health and Human Services to work with stakeholders on improving farm worker health and working conditions.**

Funding:

Stakeholders reiterated that EPA is not providing adequate resources for the WPS program. It was noted that states supply the lions share of the funding to support WPS program implementation even though the WPS is supposedly a Federal program. People felt that EPA's funding formula is outdated, and there was disagreement over whether EPA even supplies enough funding to be establishing a minimum number of WPS inspections for each state. People felt that EPA should appropriate more funds for the WPS program and resources should be allocated based on better criteria such as the number of WPS covered facilities, the number of workers, the types of labor, the types of agriculture, the number of handlers and/or certified applicators, and the number of pesticide producing establishments making WPS labeled products.

The National Assessment Process:

Stakeholders voiced general support for EPA's proposal for the national assessment process. Most participants felt that EPA was assuring adequate stakeholder representation in the assessment process, but it was noted that EPA should take steps to secure greater grower participation in future stakeholder meetings and the overall assessment process. Some participants felt that there were more worker advocacy groups represented in Austin and there needs to better balance in the future. It was noted that it is especially important for the assessment workgroups to have an even make-up. Stakeholders encouraged EPA to move forward with workgroup formation as soon as possible. It was noted that face-to-face meetings would be ideal for initial workgroup meetings, but if funding prohibited that arrangements then the assessment workgroups should operate by conference calls. It was pointed out that historical memory is critical to this assessment process, and EPA should try to assure that people with historical knowledge take part in the assessment.

3. Next Steps

The Austin meeting represents a significant milestone in initiating the national assessment and setting a course for the process, but it is important to note that the WPS assessment is an ongoing process. EPA is seeking the involvement of stakeholders who wish to participate in the next steps of the national assessment process but were unable to attend the Austin meeting. Next steps include:

- ❖ **Creation of WPS Assessment Work Group and Working Committees**

As part of the national assessment, EPA intends to form a “WPS Assessment Work Group.” This workgroup will help provide direction to the assessment process, the different assessment working committees, and the overall WPS program. The workgroup will be comprised of representatives from EPA, Departments of Agriculture, Labor, and Health and Human Services, state regulators, state extension service safety educators, farm worker advocacy groups, farm worker service/training associations, agricultural employer associations, farm worker clinicians networks, and other interested stakeholders.

One of the cornerstones of the proposed assessment process is the formation of a number of smaller working committees that will more thoroughly focus on and address the broad themes areas and underlying issues identified in Austin. The assessment working committees will be made up of representatives from the WPS stakeholders who have volunteered to be active participants in the assessment process.

2. Additional Stakeholder Meetings

The Austin meeting was only the first of three stakeholder meetings that are being held to invite stakeholder participation in the national assessment effort. The Agency is planning two additional stakeholder meetings that will invite continued input on the WPS program and the national WPS assessment process. The two remaining stakeholder meetings are being planned for different regions of the country to assure that different regional perspectives are adequately represented in the assessment process.

The next stakeholder meeting will be held in Sacramento, California, in December 2000, and a third stakeholder meeting will be held in Orlando, Florida in the Spring of 2001. EPA will be disseminating additional information about the arrangements for the next stakeholder meetings as soon as it becomes available.

For More Information

For more information about the status of the national assessment process, plans for future stakeholder meetings, or how to become involved in the various workgroups being formed, interested parties are encouraged to visit the Certification and Worker Protection Branch’s web page (www.epa.gov/pesticides/safety) or call the Branch office directly at 703-305-7666.